IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO.735 OF 2003
IN
SUMMARY SUIT NO.2298 OF 1997

Canara Bank Plaintiff

versus

M/s.Rekha Sharad Jhaveri & anr. Defendants

Ms.Yamini Chandaran i/by Umesh Shetty & Co. for plaintiff.

None for defendants.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 6th July 2005

PC :

1. Heard Ms.Chandaran appearing for plaintiff.

2. She states that on writ of summons being served, appearance has been filed by Mr.Joseph Fernandes, advocate on behalf of defendants. A Summons for Judgement was thereupon taken out and duly served upon Mr.Joseph Fernandes. Affidavit proving service is already filed and taken on record. There is no reply to the Summons for Judgement nor is any application made for leave to defend the suit.

3. Summary suit was filed against Mr.Sharad M. Jhaveri as sole proprietor of M/s.Jhaveri Enterprises. The suit is on Hundies/Bills of Exchange which have been discounted with the plaintiff. The details thereof are set out in para no.2 of the plaint.

4. It has also been set out in the plaint as to how deceased sole proprietor did not dispute the liability despite receipt of several invoices and reminders. Ultimately, the summary suit had to be filed. The deceased sole proprietor expired on 1st March 1996. Suit is filed against heirs and legal representatives of the deceased sole proprietor. In the light of the law laid down by this Court, a summary suit is maintainable against heirs and LRs.. That decision is reported in 1990(XCIII)-BLR-218 (Bank of India Vs. M/s.Industrial Polymer). There is no defence to the claim in the suit. Therefore, the plaintiff is entitled to a judgement in their favour. Original documents along with list taken on record and marked "X" for identification. Decree as prayed. Refund of court fees and computation of advocates' costs as per rules.

(S.C.DHARMADHIKARI, J.)